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H.B. 286*
134th General Assembly

Bill Analysis

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Version: As Reported by House Rules

Primary Sponsor: Rep. Seitz

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SUMMARY

Appeals of administrative orders

- Modifies the current Administrative Procedure Act by generally providing that a party adversely affected by an order of an agency may appeal from the order to the court of common pleas of the county in which the place of business of the party is located or the county in which the party is a resident.
- Eliminates the existing provision that an appeal from an order issued by any of the following agencies be made to the Franklin County Court of Common Pleas:
 - Liquor Control Commission;
 - Ohio Casino Control Commission;
 - State Medical Board;
 - State Chiropractic Board;
 - Board of Nursing;
 - Bureau of Workers' Compensation regarding participation in the health partnership program.
- Removes the current provision that any party adversely affected by an order of an agency issued pursuant to any other adjudication may appeal, with certain exceptions, to the Franklin County Court of Common Pleas.

* This analysis was prepared before the report of the House Rules Committee appeared in the House Journal. Note that the legislative history may be incomplete.

March 29, 2022

- Modifies specific statutes on adjudication orders of specified agencies to replace current provisions regarding appeals of the orders to the Franklin County Court of Common Pleas, the Environmental Division of the Franklin County Municipal Court, or the court of the county in which an appointing authority resides, with the bill’s venue provision described in the first dot point.

No claim preclusion in zoning appeals

- Provides that a final judgment on the merits by a court pursuant to its power of review of administrative orders on claims brought under the County Rural Zoning Law, the Township Zoning Law, or the Municipal Planning Commissions Law does not preclude later claims for damages.
- States that the General Assembly intends that the above provisions in the respective laws be construed to override the federal Sixth Circuit Court of Appeals decision in the case of *Lavon Moore v. Hiram Twp.*, 988 F.3d 353 (6th Cir. 2021.)

Challenge of administrative order responding to state of emergency

- Modifies current law by providing that an action challenging an order of an administrative department or head, state agency, or state elected officer issued in response to a state of emergency be brought in the Court of Claims instead of the court in the county of the person’s residence or business.

DETAILED ANALYSIS

Appeal of administrative agency order

The current Administrative Procedure Act generally provides that a party adversely affected by any order of an agency issued pursuant to an adjudication denying an applicant admission to an examination, denying the issuance or renewal of a license or registration of a licensee, revoking or suspending a license, or allowing the payment of a forfeiture rather than suspending operations of a liquor permit holder by order of the Liquor Control Commission, may appeal from the order of the agency to the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident.¹

The bill modifies current law by providing that a party adversely affected by an order of an agency as described above may appeal from the order to the court of common pleas of the county in which the place of business of the *party*, instead of “licensee” is located or the county in which the *party* is a resident.²

¹ R.C. 119.12(A)(1).

² R.C. 119.12(A)(1).

The bill eliminates the current provision that an appeal from an order issued by any of the following agencies be made to the Franklin County Court of Common Pleas (Franklin County CCP): (1) Liquor Control Commission, (2) Ohio Casino Control Commission, (3) State Medical Board, (4) State Chiropractic Board, (5) Board of Nursing, and (6) Bureau of Workers' Compensation regarding participation in the health partnership program administered by the Bureau.³

The bill also eliminates the provision that any party adversely affected by an order of an agency issued pursuant to any other adjudication may appeal to the Franklin County CCP, except that appeals from orders of the Fire Marshal issued under the Fire Marshal and Fire Safety Law may be to the court of common pleas of the county in which the building of the aggrieved person is located and except that appeals under the law dealing with reduction in pay or position, suspension, or removal, from a decision of the State Personnel Board of Review or a municipal or civil service township civil service commission must be taken to the court of common pleas of the county in which the appointing authority is located or, in the case of an appeal by the Department of Rehabilitation and Correction, to the Franklin County CCP.⁴

Current law, not changed by the bill, provides that if any party appealing from an order of an agency is not a resident of and has no place of business in Ohio, the party may appeal to the Franklin County CCP.⁵

Appeal from order of specific agencies

The bill's provision above that a party adversely affected by an order of an agency may appeal from the order to the court of common pleas of the county in which the place of business of the party is located or the county in which the party is a resident applies to any of the following appeals:

- In cases of removal or reduction in pay for disciplinary reasons, the appointing authority or the officer or employee in the classified service may appeal from the decision of the State Personnel Board of Review or the municipal civil service commission of the city or city school district.⁶ The bill replaces current law which provides for the appeal to the court of common pleas of the county in which the appointing authority is located, or to the Franklin County CCP.⁷
- In cases in which the Director of Agriculture or a designated representative impounds and seizes a dog from a high volume breeder or dog broker for violation of applicable law or rule, the high volume breeder's owner or operator or the person acting as a dog

³ Current R.C. 119.12(A)(2).

⁴ R.C. 119.12(B).

⁵ R.C. 119.12(A)(2) in the bill.

⁶ R.C. 124.34(B).

⁷ *Id.*

broker may appeal from such determination at an adjudication hearing.⁸ The bill replaces the existing provision that the appeal may be made only to the environmental division of the Franklin County Municipal Court.⁹

- In cases in which an application for a license as a high volume breeder or dog broker is denied or such license is suspended or revoked upon a determination of the Director of Agriculture at an adjudication hearing, the applicant or licensee may appeal from such determination.¹⁰ The bill replaces the existing provision that the appeal may be made only to the environmental division of the Franklin County Municipal Court.¹¹
- In cases in which a proprietor of a public place or place of employment or an individual against whom a finding of a violation of any prohibition under the Smoking Ban Law is made by the Department or Director of Health or designee, may appeal the finding.¹² The bill replaces current law which provides that the finding may be appealed to the Franklin County CCP.¹³
- In cases in which, after a public hearing, the Superintendent of Insurance issues an order of disapproval of any merger or other acquisition of control of a domestic insurer, the order may be appealed by filing a notice of appeal with the Superintendent and a copy of the notice of appeal with the court, within 15 calendar days after the transmittal of the copy of the order.¹⁴ The bill replaces current law which specifies that the order of disapproval may be appealed to the Franklin County CCP.¹⁵
- In cases in which the Superintendent of Insurance issues an order regarding the conversion of a domestic mutual life insurance company to a stock life insurance company, which an adversely affected policyholder may appeal.¹⁶ The bill replaces current law which provides that a policyholder adversely affected by such order may appeal to the Franklin County CCP.¹⁷
- In cases in which the Superintendent of Insurance issues an order regarding the conversion of a domestic mutual insurance company other than life to a stock insurance

⁸ R.C. 956.11(C).

⁹ *Id.*

¹⁰ R.C. 956.15(C).

¹¹ *Id.*

¹² R.C. 3794.09(C).

¹³ *Id.*

¹⁴ R.C. 3901.321(F)(2)(e).

¹⁵ *Id.*

¹⁶ R.C. 3913.13 and by reference to R.C. 3913.11(F).

¹⁷ *Id.*

corporation other than life, which an adversely affected policyholder may appeal.¹⁸ The bill replaces current law which provides that a policyholder adversely affected by such order may appeal to the Franklin County CCP.¹⁹

- In cases in which an appellant who appeals an order of an agency administering a family services program, who is granted a state hearing, and who disagrees with the state hearing decision and generally makes an administrative appeal to the Department of Job and Family Services (JFS) may appeal from the JFS administrative appeal decision.²⁰ The bill replaces current law which provides that the person may appeal to the court of common pleas of the county in which the person resides, or to the Franklin County CCP if the person does not reside in this state.²¹
- In cases in which an adversely affected party may appeal from the Medicaid Department's adjudication order regarding: (1) refusal to enter into a provider agreement with a Medicaid provider, (2) refusal to revalidate a Medicaid provider's provider agreement, (3) suspension or termination of a Medicaid provider's provider agreement, or (4) taking any action based upon a final fiscal audit of a Medicaid provider.²² The bill replaces current law which provides that any party who is adversely affected by the issuance of any such adjudication order may appeal to the Franklin County CCP.²³

Effectivity provision

The bill provides that R.C. 956.15 as presented in the act (administrative appeal of a denial of an application for a license as a high volume breeder or dog broker or suspension or revocation of such license upon a determination of the Director of Agriculture) takes effect on the later of October 9, 2021, or the effective date of that section. (October 9, 2021, is the effective date of an earlier amendment to that section by H.B. 263 of the 133rd General Assembly.)²⁴

No claim preclusion in zoning appeals

The bill provides that a final judgment on the merits issued by a court of competent jurisdiction pursuant to its power of review of orders of administrative officers and agencies on

¹⁸ R.C. 3913.23 and by reference to R.C. 3913.21(F).

¹⁹ *Id.*

²⁰ R.C. 5101.35(B), (C), and (E).

²¹ R.C. 5101.35(E)(1). The bill's new venue provision above and current law on an appeal by a nonresident to the Franklin County CCP would apply and the eliminated provision in R.C. 5101.35(E)(1) would be duplicative.

²² R.C. 5164.38(C) and (D).

²³ R.C. 5164.38(D).

²⁴ Section 3.

claims brought under the County Rural Zoning Law, the Township Zoning Law, or the Municipal Planning Commissions Law does not preclude later claims for damages, including claims brought under 42 U.S.C. 1983, even if the common law doctrine of res judicata would otherwise bar the claim.²⁵

The bill states that the General Assembly intends that the above provisions in the respective laws be construed to override the federal Sixth Circuit Court of Appeals' decision in the case of *Lavon Moore v. Hiram Twp.*, 988 F.3d 353 (6th Cir. 2021).²⁶

Challenge of administrative order responding to state of emergency

The bill modifies current law by providing that notwithstanding any other provision of the Revised Code, a person who challenges an order or rule adopted by an administrative department, administrative department head, state agency, or statewide elected officer that is issued or adopted in response to a state of emergency, in an action for damages, declaratory judgment, injunctive relief, or other appropriate relief may do so in the Court of Claims, instead of an appropriate court located in the county where the person's residence or business is located.²⁷ It removes the exception to the Court of Claims' jurisdiction of those types of actions.²⁸

HISTORY

Action	Date
Introduced	05-04-21
Reported, H. Civil Justice	06-23-21
Reported, H. Rules	---

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²⁵ R.C. 303.57, 519.26, and 713.16.

²⁶ *Id.*

²⁷ R.C. 107.43(D)(1).

²⁸ R.C. 2743.03(A)(1).